THE HON'BLE SRI JUSTICE

GODA RAGHURAM

FRIDAY, THE 25TH DAY OF NOVEMBER, 2005

W.P.No. 12525 of 2005

Between:-

Md. Iliyas Ali Khan

--Petitioner

And

District Educational Officer, Nizamabad district and another.

--Respondents

Oral order:- (W.P.No. 12525 of 2005)

The petitioner, in substance, is aggrieved by the action of the respondents in not approving his selection to the post of School Assistant-II (Mathematics); not absorbing him to a post admitted to grant-in-aid and in contravention of the Government Orders in G.O.Ms.No. 50 Education (SE.TRG.II) Department dated 12-08-1999 (for short ‘ the G.O.Ms.No. 50’).

The petitioner after acquiring a graduate qualification in Science applied for admission to the course of B.Ed., and completed the same in the year 1998. The 2nd respondent, a private aided educational institution, issued a notification for various posts, including the post of School Assistant-II (Mathematics). The petitioner applied and was selected by a duly constituted selection committee. He was appointed as a School Assistant-II (Mathematics) vide proceedings dated 14-05-2000 of the 2nd respondent-management. As formal approval of his selection by the competent authority was not forthcoming; he represented the matter to the management of the 2nd respondent. Eventually, he came to learn of the impugned proceedings of the 1st respondent bearing reference No.853/C2/2000 dated 13-05-2000 wherein it is recorded that his selection is not approved, as he is having a B.Ed., certificate from Algappa

University, which is not recognized by the Government. The petitioner claims that in view of the orders of the State Government in G.O.Ms.No. 50, he is qualified and eligible for being appointed as a School Assistant on the basis of his B.Ed., qualification obtained from the Algappa University in the year 1998. According to the petitioner, as per paragraph No.5 of the G.O.Ms.No. 50, candidates who joined courses up to 1995-96 and have passed examinations in subsequent years are permitted to appear for District Selection Committee, 1999 subject to fulfilling of further requirements. There could not be different standards for D.S.C. appointees and for teachers in private aided educational institutions, is the contention.

The learned Government Pleader for School Education Sri Prabhakar states that the Government orders (in G.O.Ms.No.50) were issued pursuant to the proceedings of the Commissioner and Director of School Education, Andhra Pradesh, Hyderabad dated 14-05-1999, which were instructions to all the District Educational Officers, the Regional Joint Directors of School Education, Principals of Colleges of Teacher's Education and other officers. As per these proceedings (dated 14-05-1999, the Commissioner of School Education clarified that *inter alia* B.Ed., courses offered by Alagappa University through distant educational institutions are not equivalent to B.Ed., degree courses of State of Andhra Pradesh, as the Southern Regional Committee, N.C.T.E., did not accord provisional recognition to the institutes of Distance Education of Algappa University and the Government had not equated the B.Ed., degree course offered under Distance Education Institutes of Alagappa University to that of B.Ed., degree courses of the State of Andhra Pradesh. Learned Government Pleader also states that in view of the provisions of the National Council for Teacher Education Act, 1993, which came into force with effect from 17-08-1995, teacher training course certificates or degrees issued by institutions, not approved by the N.C.E.T., are not to be recognized for employment of teachers in Government educational institutions. In view of the statutory position, in view of the clarification issued by the Commissioner and Director of School

Education, Andhra Pradesh dated 14-05-1999 and the orders of the Government in G.O.Ms.No. 50, the petitioner is not eligible, is what is contended on behalf of the respondents by the learned Government Pleader for School Education.

The fact of the matter, however, is that the order of the 1st respondent dated 13-05-2000 does not specify any details or accord any reasons why the selection of the petitioner is not approved or why the B.Ed., degree certificate of Algappa University is not recognized by the Government. The statement of the 1st respondent is set out in the proceedings dated 13-05-2000. If literally read, it is clearly erroneous. All B.Ed., certificates issued by the Algappa University are not unrecognized. Only certificates issued after a particular date and in respect of courses of study undergone after a particular date are unrecognized. The 1st respondent has not chosen to specify the reasons in his order. It is perhaps not inappropriate to point out that the 1st respondent is not permitted to issue Firmans. He is determining the eligibility of a candidate, who has passed through a process of selection to which a nominee of the Government is also a party, for granting an approval to such selection, which qualifies a candidate for appointment to an aided post. The legitimate expectations of a candidate and his opportunities for a secured livelihood are dependent on such decision. Recording an *ipse dixit* is wholly incongruous to the functions of the 1st respondent. As a statutory authority, the 1st respondent, is obligated to exercise due concern and record reasons for coming to the conclusion that the petitioner is not eligible for receiving approval for selection and for consequent appointment to an aided post. If the 1st respondent felt incapable or inadequate to pass a detailed order, he should have taken appropriate measures to consult the next level of authority as to the relevant material, the appropriate decision or how the order be drafted. The order of the 1st respondent is laconic and bereft of any particulars relating to the petitioner or to why he is not eligible. The order of the 1st respondent, that the B.Ed., degrees of Algappa

University are not recognized is factually incorrect insofar as the 1st respondent makes a broad statement which compels an inference that all B.Ed., degree certificates issued by Algappa University are un-recognised. This is not the correct position.

For the aforesaid reasons, the order of the 1st respondent dated 13-05-2000 in reference No. 853/C2/2000 is set aside. The 1st respondent shall now pass an order, within two weeks from the date of receipt of a copy of this order, considering the claim of the petitioner for approval of his selection as a School Assistant-II (Mathematics) in the 2nd respondent school, duly recording all and every reason for which the 1st respondent is satisfied that the petitioner is eligible or otherwise for being appointed as School Assistant-II (Mathematics) in the 2nd respondent school.

As the casual order of the 1st respondent has not merely caused prejudice and uncertainty to the petitioner; but has consumed considerable and avoidable judicial time, this court considers it appropriate to allow the writ petition with costs of Rs. 1,500-00 (Rupees one thousand five hundred only) payable by the 1st respondent to the petitioner, within a period of four (4) weeks from the date of receipt of a copy of this order. The order of the 1st respondent, as directed above, shall be passed and be communicated to the petitioner within the time ordained above.

The writ petition is, accordingly, allowed, as above.

GODA RAGHURAM, J

Dated: 25-11-2005

Pvks/*

Nb:- Furnish c.c. in a week.

B/o pvks/*